

Remarks

I. Status and Nature of the Amendment

Claims 1-11 are presently pending; claims 12-15 have been cancelled without prejudice or disclaimer as drawn to a non-elected invention in light of the finalization of the restriction requirement issued by the Examiner.

Claims 1 and 6 (and thus their dependent claims as well) have been amended to more clearly describe Applicants' invention. As amended, the claims delete reference to the term "muscle toxin" that was of concern to the Examiner, and clarify that Applicants' invention involves the use of a cellular toxin to mediate the death of muscle cells, in contrast to a neurotoxin, such as botox, that does not mediate the death of muscle cells. Support for the amendment can be found throughout the specification (e.g., at page 2, lines 8-11, page 4, lines 6-10, and page 23, lines 1-17) wherein it is disclosed that the administration of the immunotoxin conjugate caused loss of protein synthesis and toxicity in recipient muscle cells. Please also note the finding of necrosis of muscle fibers after treatment of live animals with the immunotoxin conjugate (page 25, lines 12-14), and the finding of muscle weakening due to the death of muscle cells of recipient muscles (page 26, line 1 – page 28, line 14). No new matter has been introduced by this amendment.

III. The Rejection pursuant to 35 U.S.C. § 112, First Paragraph

Claims 1-11 have been rejected pursuant to 35 U.S.C. § 112, first paragraph, in light of Applicants' recitation of the term "muscle toxin." Applicants have amended the claims to recite that Applicants' toxin is a cellular toxin that is used to mediate the death of muscle cells of a recipient muscle. It is believed that such amendment fully addresses the Examiner's concerns, and is fully supported by the specification, yet continues to distinguish Applicants' invention from methods that involve the administration of botox, which only temporarily reduces the symptoms of focal muscle spasms (see Specification,

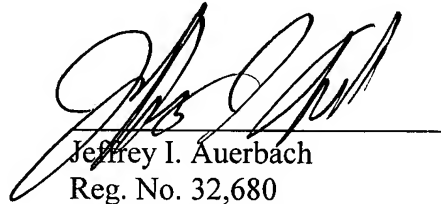
pages 1-2). As discussed previously, botox inhibits the release of acetylcholine from the neuromuscular junction, resulting in a localized paralysis when minute doses are injected. Applicants respectfully submit that the claimed invention is distinct from, and patentable over, the methods of the prior art.

IV. Concluding Remarks

Applicants respectfully submit that the present application is in condition for Allowance, and earnestly solicit early notice of favorable action. The Examiner is respectfully invited to contact the undersigned with respect to any issues regarding this application.

Respectfully Submitted,

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